

96TH CONGRESS
1ST SESSION

H. R. 4691

To amend the Trade Act of 1974, the Tariff Act of 1930, and other Acts relating to trade in order to coordinate certain trade functions of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1979

Mr. JONES of Oklahoma (for himself and Mr. FRENZEL) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Government Operations

A BILL

To amend the Trade Act of 1974, the Tariff Act of 1930, and other Acts relating to trade in order to coordinate certain trade functions of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Trade Coordination Act
5 of 1979".

1 **TITLE I—AMENDMENTS TO VARIOUS TRADE**
2 **ACTS**

3 **SEC. 101. AMENDMENTS TO TRADE ACT OF 1974.**

4 (a) **FUNCTIONS OF THE SPECIAL TRADE REPRESENTATIVE.**—(1) Paragraph (1) of section 141(c) of the
5 Trade Act of 1974 is amended by—
6

7 (A) striking out “and” at the end of subparagraph
8 (E);

9 (B) redesignating subparagraph (F) as subpara-
10 graph (G); and

11 (C) inserting after subparagraph (E) the following:

12 “(F) perform the functions set forth in paragraph
13 (3); and”.

14 (2) Section 141(c) of the Trade Act of 1974 is amended
15 by adding at the end thereof the following new paragraph:

16 “(3) On and after the effective date of the Trade Coordi-
17 nation Act of 1979, the functions performed before such date
18 by the Department of State with respect to the negotiation
19 and implementation of commercial agreements and trade
20 agreements, including commodity agreements, with foreign
21 nations, shall be performed by the Special Representative for
22 Trade Negotiations.” .

23 (3) Section 141 of the Trade Act of 1974 is amended by
24 adding at the end thereof the following new subsection:

1 “(i) All functions of the Special Representative for
2 Trade Negotiations, the Office of the Special Representative
3 for Trade Negotiations, and all officers and components
4 thereof with respect to relief from unfair trade practices
5 under chapter 1 of title II of this Act or under the Trade
6 Agreements Act of 1979 shall be performed on and after the
7 effective date of the Trade Coordination Act of 1979 by the
8 Secretary of Commerce.”

9 (b) FUNCTIONS OF THE SECRETARY OF LABOR RE-
10 LATING TO ADJUSTMENT ASSISTANCE.—(1) Subsection (a)
11 of section 221 of the Trade Act of 1974 is amended by strik-
12 ing out “Secretary of Labor (hereinafter in this chapter re-
13 ferred to as the ‘Secretary’)” and inserting in lieu thereof
14 “Secretary of Commerce (hereinafter in this subchapter re-
15 ferred to as the ‘Secretary’)”.

16 (2) Subsection (b) of section 232 of the Trade Act of
17 1974 is amended by inserting “of Labor (hereinafter in this
18 subchapter referred to as the ‘Secretary’)” after “Secretary”.

19 (3) Subsection (a) of section 239 of the Trade Act of
20 1974 is amended by inserting “of Labor (hereinafter in this
21 subchapter referred to as the ‘Secretary’)” after “Secretary”
22 the first place it appears.

23 (4) Section 248 of the Trade Act of 1974 is amended by
24 inserting “and the Secretary of Commerce” after
25 “Secretary”.

1 (5) Section 249 of the Trade Act of 1974 is amended by
2 inserting “of Commerce” after “Secretary” each place it
3 appears.

4 (6) Section 250 of the Trade Act of 1974 is amended by
5 inserting “of Commerce” after “Secretary” each place it
6 appears.

7 (c) FUNCTIONS RELATING TO UNIFORM STATISTICAL
8 DATA ON IMPORTS, EXPORTS, AND PRODUCTION.—Section
9 608 of the Trade Act of 1974 is amended by—

10 (1) striking out “and the United States Interna-
11 tional Trade Commission” each place it appears in
12 subsection (b);

13 (2) striking out “United States International
14 Trade Commission” and “Commission” each place
15 they appear in subsection (c) and inserting in lieu
16 thereof “Secretary of Commerce”; and

17 (3) striking out “and the United States Interna-
18 tional Trade Commission in carrying out their” in sub-
19 section (d) and inserting in lieu thereof “in carrying out
20 its”.

21 **SEC. 102. AMENDMENTS TO TARIFF ACT OF 1930.**

22 (a) TRANSFER OF COMMISSION TO DEPARTMENT OF
23 COMMERCE.—Part II of title III of the Tariff Act of 1930 is
24 amended by adding at the end thereof the following new
25 section:

1 "SEC. 342. TRANSFER OF COMMISSION TO THE DEPARTMENT
2 OF COMMERCE.

3 "(a) The International Trade Commission is transferred
4 to and established in the Department of Commerce as an
5 independent entity. In the performance of their functions the
6 members, employees, and other personnel of the Commission
7 shall not be responsible to the supervision or direction of
8 any officer, employee, or agent of any other part of the
9 Department."

10 (b) FUNCTIONS RELATING TO UNIFORM STATISTICAL
11 DATA.—Subsection (e) of section 484 of the Tariff Act of
12 1930 is amended by striking out "The Secretary of the
13 Treasury, the Secretary of Commerce, and the United States
14 International Trade Commission are" and inserting in lieu
15 thereof "The Secretary of Commerce is".

16 (c) TARIFF SCHEDULES AND SUMMARIES.—Section
17 332 of the Tariff Act of 1930 is amended by adding at the
18 end thereof the following new subsection:

19 "(h) TRANSFER OF CERTAIN FUNCTIONS TO THE SEC-
20 RETARY OF COMMERCE.—The functions of the Commission
21 under this section which relate to tariff schedules and sum-
22 maries shall be performed on and after the effective date of
23 the Trade Coordination Act of 1979 by the Secretary of
24 Commerce."

1 (d) INVESTIGATIONS OF UNFAIR PRACTICES IN
2 IMPORT TRADE.—(1) Subsection (b) of section 337 of the
3 Tariff Act of 1930 is amended by—

4 (A) striking out “Commission” the first place it
5 appears and inserting in lieu thereof “Secretary of
6 Commerce (hereinafter in this subsection referred to as
7 the ‘Secretary’)”; and

8 (B) striking out “Commission” each other place it
9 appears and inserting in lieu thereof “Secretary”.

10 (2) The first sentence of subsection (c) of such section
11 337 is amended by striking out “it” and inserting in lieu
12 thereof “the Secretary of Commerce”.

13 (e) COUNTERVAILING DUTIES.—(1) Paragraph (3) of
14 subsection (a) of section 303 of the Tariff Act of 1930 is
15 amended by striking out “Secretary of the Treasury” and
16 inserting in lieu thereof “Secretary of Commerce”.

17 (2) Paragraph (2) of subsection (d) of such section 303 is
18 amended by striking out “of the Treasury”.

19 SEC. 103. AMENDMENTS TO ANTIDUMPING ACT, 1921.

20 (a) IN GENERAL.—Subsection (a) of section 201 of the
21 Antidumping Act, 1921 is amended by striking out “Secre-
22 tary of the Treasury” and inserting in lieu thereof “Secretary
23 of Commerce”.

1 (b) CONFORMING AMENDMENT.—Subsection (a) of sec-
2 tion 202 of the Antidumping Act, 1921 is amended by strik-
3 ing out “of the Treasury”.

4 **SEC. 104. AMENDMENT TO TARIFF CLASSIFICATION ACT OF**
5 **1962.**

6 Section 201 of the Tariff Classification Act of 1962 is
7 amended by striking out “Commission” and inserting in lieu
8 thereof “The Secretary of Commerce”.

9 **TITLE II—FURTHER COORDINATION OF**
10 **TRADE FUNCTIONS**

11 **SEC. 201. TRANSFERS TO THE SECRETARY OF COMMERCE.**

12 (a) IN GENERAL.—There are transferred to and vested
13 in the Secretary of Commerce (hereinafter in this Act re-
14 ferred to as the “Secretary”)—

15 (1) such functions of the Secretary of State, the
16 Department of State and officers and components of
17 such Department as relate to—

18 (A) commercial affairs and business activi-
19 ties, including export promotion, but not including
20 the reporting of economic conditions in foreign
21 countries; and

22 (B) international investment policy;

23 (2)(A) all functions of the Secretary of the Treas-
24 ury, the Department of Treasury, and any officer or
25 component thereof which are carried out through the

1 Assistant Secretary of the Treasury for International
2 Affairs, except those functions of such Assistant Secre-
3 tary which relate to monetary policy, international ex-
4 change, international investment, Saudi Arabian af-
5 fairs, and United States membership in bilateral and
6 multilateral monetary institutions; and

7 (B) all functions of the Secretary of the Treasury
8 administered through the office known as the Office of
9 Foreign Assets Control;

10 (3) the functions of the International Trade Com-
11 mission conducted through the office known as the
12 Office of Industries; and

13 (4) the functions of the Secretary of the Interior
14 conducted through the office known as the Division of
15 Interindustry and Economic Analysis.

16 (b)(1) The Export-Import Bank is transferred to and es-
17 tablished in the Department of Commerce (hereinafter in this
18 Act referred to as the "Department") as an agency and in-
19 strumentality of the United States under the general supervi-
20 sion and direction of the Secretary, as provided in section 2
21 of the Export-Import Bank Act of 1945 as amended by sec-
22 tion 310(d) of this Act.

23 (2) The Overseas Private Investment Corporation is
24 transferred to and established in the Department as an
25 agency and instrumentality of the United States under the

1 general supervision and direction of the Secretary; as pro-
2 vided in section 233 of the Foreign Assistance Act of 1961
3 as amended by section 310(c)(2) of this Act.

4 **SEC. 202. ESTABLISHMENT OF UNDER SECRETARIES OF COM-**
5 **MERCE FOR DOMESTIC COMMERCE AND FOR IN-**
6 **TERNATIONAL TRADE.**

7 There shall be in the Department an Under Secretary
8 for Domestic Commerce and an Under Secretary for Interna-
9 tional Trade, each of whom shall be appointed by the Presi-
10 dent, by and with the advice and consent of the Senate.
11 Either Under Secretary, as designated by the Secretary,
12 shall act for and exercise the functions of the Secretary
13 during any period of absence or disability of the Secretary or
14 in the event of a vacancy in the Office of the Secretary. The
15 Secretary shall prescribe the succession to the functions of
16 the Secretary in the event of absence or disability of or va-
17 cancy in the office of each such Under Secretary.

18 **SEC. 203. ADDITIONAL DUTIES OF THE SECRETARY OF**
19 **COMMERCE.**

20 (a) **IN GENERAL.**—The Secretary shall promote and
21 undertake the development, collection, and dissemination, of
22 technical, statistical, economic, and other information relative
23 to domestic and international trade and investment; consult
24 and cooperate with other executive agencies in gathering in-
25 formation regarding the status of international trade and in-

1 vestment in which the United States or other countries may
2 be participants; and consult and cooperate with State and
3 local governments and other interested parties, including,
4 when appropriate, holding informal public hearings.

5 (b) JUDICIAL REVIEW.—Orders and actions of the Sec-
6 retary in the exercise of the functions transferred under this
7 Act, and orders and actions of any entity the responsibilities
8 of which are transferred to the authority of the Secretary and
9 vested in the Secretary pursuant to the functions specifically
10 assigned to any such entity under this Act or any other Act
11 of Congress, shall be subject to judicial review to the same
12 extent and in the same manner as if such orders and actions
13 had been by the department or agency or other authority
14 exercising such functions immediately preceding their trans-
15 fer. Any statutory requirements relating to notice, hearings,
16 actions upon the record, or administrative review that apply
17 to any functions transferred under this Act shall apply to the
18 exercise of such functions by the Secretary.

19 (c) AUTHORITY.—In the exercise of the functions trans-
20 ferred under this Act, the Secretary shall have the same au-
21 thority as that vested in the department, agency, or authority
22 exercising such functions immediately preceding their trans-
23 fer, and their actions in exercising such functions shall have
24 the same force and effect as when exercised by such depart-
25 ment, agency, or authority.

1 (d) CONSULTATION.—In carrying out the functions
2 transferred under this Act, the Secretary shall consult, ex-
3 change information, and carry on joint planning, research,
4 and other activities with the Secretary of the Treasury, the
5 Secretary of State, the Secretary of Agriculture, and the
6 heads of such other executive agencies as the Secretary
7 deems appropriate.

8 (e) STUDY.—The Secretary shall jointly study, with the
9 Secretary of State, the Secretary of the Treasury, the Secre-
10 tary of Agriculture, and the heads of such other executive
11 agencies as the Secretary deems appropriate, how Federal
12 policies and programs can ensure that international trade and
13 investment systems most effectively serve both national and
14 international economic needs. The Secretary shall include in
15 the annual report required by section 307 of this Act an ac-
16 count of the studies and activities conducted under this sub-
17 section, including any legislative recommendations which the
18 Secretary determines desirable.

19 **TITLE III—MISCELLANEOUS PROVISIONS**

20 **SEC. 301. ADMINISTRATIVE PROVISIONS.**

21 (a) PERSONNEL.—The Secretary is authorized to ap-
22 point and fix the compensation of such officers and employ-
23 ees, including attorneys and investigators, as may be neces-
24 sary to carry out the functions transferred under this Act to
25 the Secretary and the Department, except that the total

1 number of individuals who may be so appointed shall not
2 exceed the total number of individuals who were performing
3 such functions on the day preceding the effective date of this
4 Act, unless otherwise provided by a provision of law enacted
5 after the date of enactment of this Act. Except as otherwise
6 provided by law, such officers and employees shall be ap-
7 pointed in accordance with the provisions of title 5, United
8 States Code, governing appointments in the competitive
9 service, and compensated in accordance with the provisions
10 of chapter 51 and subchapter III of chapter 53 of such title.

11 (b) EXPERTS AND CONSULTANTS.—The Secretary
12 may obtain the services of experts and consultants in accord-
13 ance with the provisions of section 3109 of title 5, United
14 States Code, and may compensate such experts and consul-
15 tants at rates not to exceed the daily rate prescribed for
16 GS-18 of the General Schedule under section 5332 of such
17 title.

18 (c) VOLUNTEER SERVICES.—(1)(A) The Secretary is
19 authorized to accept voluntary and uncompensated services
20 without regard to the provisions of section 3679(b) of the
21 Revised Statutes (31 U.S.C. 665(b)) if such services will not
22 be used to displace Federal employees employed on a full-
23 time, part-time, or seasonal basis.

1 (B) The Secretary is authorized to accept volunteer
2 service in accordance with the provisions of section 3111 of
3 title 5, United States Code.

4 (2) The Secretary is authorized to provide for incidental
5 expenses, including but not limited to transportation, lodging,
6 and subsistence for such volunteers.

7 (3) An individual who provides voluntary services under
8 paragraph (1)(A) of this subsection shall not be considered a
9 Federal employee for any purpose other than for purposes of
10 chapter 81 of title 5, United States Code, relating to compen-
11 sation for work injuries, and of chapter 171 of title 28,
12 United States Code, relating to tort claims.

13 (d) **AUTHORITY TO EXERCISE FUNCTIONS.**—In the ex-
14 ercise of the functions transferred under this Act, the Secre-
15 tary shall have the same authority as the officer, agency, or
16 office, or any part thereof, exercising such functions immedi-
17 ately preceding their transfer, and the actions of the Secre-
18 tary in exercising such functions shall have the same force
19 and effect as when exercised by such officer, agency, or
20 office, or part thereof.

21 (e) **DELEGATION.**—Except as otherwise provided in
22 this Act, the Secretary may delegate any of the functions
23 transferred under this Act to such officers and employees of
24 the Department as the Secretary may designate, and may
25 authorize such successive redelegations of such functions

1 within the Department as may be necessary or appropriate.
2 No delegation of functions by the Secretary under this sec-
3 tion or under any other provision of this Act shall relieve the
4 Secretary of responsibility for the administration of such
5 functions.

6 (f) RULES AND REGULATIONS.—The Secretary is au-
7 thorized to prescribe, in accordance with the provisions of
8 chapter 5 of title 5, United States Code, such rules and regu-
9 lations as may be necessary or appropriate to carry out the
10 functions transferred to the Secretary or the Department
11 under this Act.

12 (g) TRANSACTIONS.—(1) The Secretary is authorized to
13 enter into and perform such contracts, grants, leases, cooper-
14 ative agreements, or other similar transactions with Federal
15 departments and agencies, public agencies, State, local, and
16 tribal governments, private organizations, and individuals,
17 and to make such payments, by way of advance or reim-
18 bursement, as the Secretary may deem necessary or appro-
19 priate to carry out the functions transferred to the Secretary
20 or the Department under this Act.

21 (2) Notwithstanding any other provision of this Act, no
22 authority to enter into contracts or to make payments under
23 this Act shall be effective except to such extent or in such
24 amounts as are provided in advance under appropriation

1 Acts. This subsection shall not apply with respect to the au-
2 thority granted under subsection (h).

3 (h) GIFTS.—The Secretary is authorized to accept,
4 hold, administer, and utilize gifts, bequests and devises of
5 property, both real and personal, for the purpose of aiding or
6 facilitating the work of the Department in the performance of
7 the functions transferred under this Act. Gifts, bequests, and
8 devises of money and proceeds from sales of other property
9 received as gifts, bequests, or devises shall be deposited in
10 the Treasury in a separate fund and shall be disbursed upon
11 the order of the Secretary. Property accepted pursuant to
12 this section, and the proceeds thereof, shall be used as nearly
13 as possible in accordance with the terms of the gift, bequest,
14 or devise donating such property. For the purposes of Feder-
15 al income, estate, and gift taxes, property accepted under this
16 section shall be considered as a gift, bequest, or devise to the
17 United States.

18 **SEC. 302. REORGANIZATION.**

19 The Secretary is authorized to allocate or reallocate the
20 functions transferred to the Secretary or the Department
21 under this Act among the officers of the Department, and to
22 establish, consolidate, alter, or discontinue such organization-
23 al entities within the Department as may be necessary or
24 appropriate. The authority of the Secretary under this section
25 does not extend to the abolition of organizational entities es-

1 tablished by this Act or the reallocation of functions among
2 the officers of the Department as specifically designated
3 under this Act.

4 **SEC. 303. TRANSFER OF PERSONNEL.**

5 (a) **IN GENERAL.**—Except as otherwise provided in this
6 Act, the personnel employed in connection with, and the
7 assets, liabilities, contracts, property, records, and unexpended
8 balances of appropriations, authorizations, allocations, and
9 other funds employed, held, used, arising from, available to
10 or to be made available in connection with the functions and
11 agencies transferred to the Secretary or the Department
12 under this Act, subject to section 202 of the Budget and
13 Accounting Procedures Act of 1950, are transferred to the
14 Secretary for appropriate allocation. Unexpended funds
15 transferred pursuant to this subsection shall be used only for
16 the purposes for which the funds were originally authorized
17 and appropriated.

18 (b) **AGENCY TERMINATIONS.**—Positions specified by
19 statute or reorganization plan to carry out functions and
20 agencies transferred under this Act, personnel occupying
21 those positions on the effective date of this Act, and personnel
22 authorized to receive compensation in such positions at
23 the rate prescribed for offices and positions at level II, III,
24 IV, or V of the Executive Schedule contained in sections
25 5312 through 5316 of title 5, United States Code, on the

1 effective date of this Act, shall be subject to the provisions of
2 section 304.

3 (c) LIMITATION ON SEPARATION AND REDUCTION IN
4 GRADE OR COMPENSATION.—Except as otherwise provided
5 in this Act, the transfer pursuant to this title of full-time
6 personnel (except special Government employees) and part-
7 time personnel holding permanent positions shall not cause
8 any such employee to be separated or reduced in grade or
9 compensation for one year after such transfer or after the
10 effective date of this Act, whichever is later.

11 (d) CONTINUATION OF COMPENSATION.—Any person
12 who, on the day before the effective date of this Act, held a
13 position compensated in accordance with the Executive
14 Schedule prescribed in chapter 53 of title 5, United States
15 Code, and who, without a break in service, is appointed in
16 the Department to a position having duties comparable to the
17 duties performed immediately preceding such appointment
18 shall continue to be compensated in such new position at not
19 less than the rate provided for such previous position for the
20 duration of the service of such person in such new position.

21 **SEC. 304. AGENCY TERMINATIONS.**

22 Except as otherwise provided in this Act, whenever all
23 of the functions of any agency, commission, or other body, or
24 any component thereof, have been terminated or transferred
25 under this Act from that agency, commission, or other body,

1 or component thereof, such agency, commission, or other
2 body, or component shall terminate. If an agency, commis-
3 sion, or other body, or any component thereof, terminates
4 pursuant to the provisions of the preceding sentence, each
5 position and office therein which was expressly authorized by
6 law, or the incumbent of which was authorized to receive
7 compensation at the rates prescribed for an office or position
8 at level II, III, IV, or V of the Executive Schedule con-
9 tained in sections 5313 through 5316 of title 5, United States
10 Code, shall terminate.

11 **SEC. 305. INCIDENTAL DISPOSITIONS.**

12 The Director of the Office of Management and Budget,
13 at such time or times as such Director shall provide, is au-
14 thorized and directed to make such determinations as may be
15 necessary with regard to the transfer of functions and agen-
16 cies which relate to or are utilized by an officer, agency,
17 commission or other body, or component thereof, affected by
18 this Act, and to make such additional incidental dispositions
19 of personnel, assets, liabilities, grants, contracts, property,
20 records, and unexpended balances of appropriations, authori-
21 zations, allocations, and other funds held, used, arising from,
22 available to, or to be made available in connection with the
23 functions and agencies transferred under this Act, as may be
24 necessary to carry out the provisions of this Act. The Direc-
25 tor of the Office of Management and Budget shall provide for

1 the termination of the affairs of all agencies, commissions,
2 offices, and other bodies terminated by this Act and for such
3 further measures and dispositions as may be necessary to ef-
4 fectuate the purposes of this Act.

5 **SEC. 306. SAVINGS PROVISIONS.**

6 (a) **IN GENERAL.**—All orders, determinations, rules,
7 regulations, permits, grants, contracts, certificates, licenses,
8 and privileges—

9 (1) which have been issued, made, granted, or al-
10 lowed to become effective by the President, any Feder-
11 al department or agency or official thereof, or by a
12 court of competent jurisdiction, in the performance of
13 functions which are transferred under this Act to the
14 Department or the Secretary, and

15 (2) which are in effect at the time this Act takes
16 effect,

17 shall continue in effect according to their terms until modi-
18 fied, terminated, superseded, set aside, or revoked in accord-
19 ance with the law by the President, the Secretary, or other
20 authorized official, a court of competent jurisdiction, or by
21 operation of law.

22 (b) **PROCEEDINGS.**—(1) The provisions of this Act shall
23 not affect any proceedings, including notices of proposed
24 rulemaking, or any application for any license, permit, certifi-
25 cate, or financial assistance pending on the effective date of

1 this Act before any department, agency, commission, or com-
2 ponent thereof, the functions of which are transferred under
3 this Act; but such proceedings and applications, to the extent
4 that they relate to functions so transferred, shall be contin-
5 ued. Orders shall be issued in such proceedings, appeals shall
6 be taken therefrom, and payments shall be made pursuant to
7 such orders, as if this Act had not been enacted; and orders
8 issued in any such proceedings shall continue in effect until
9 modified, terminated, superseded, or revoked by the Secre-
10 tary, by a court of competent jurisdiction, or by operation of
11 law. Nothing in this subsection shall be deemed to prohibit
12 the discontinuance or modification of any such proceeding
13 under the same terms and conditions and to the same extent
14 that such proceeding could have been discontinued or modi-
15 fied if this Act had not been enacted.

16 (2) The Secretary is authorized to promulgate regula-
17 tions providing for the orderly transfer of proceedings contin-
18 ued under paragraph (1) to the Department.

19 (c) SUITS.—Except as provided in subsection (e)—

20 (1) the provisions of this Act shall not affect suits
21 commenced prior to the effective date of this Act, and

22 (2) in all such suits, proceedings shall be had, ap-
23 peals taken, and judgments rendered in the same
24 manner and effect as if this Act had not been enacted.

1 (d) ABATEMENT.—No suit, action, or other proceeding
2 commenced by or against any officer in the official capacity of
3 such individual as an officer or any department or agency,
4 functions of which are transferred under this Act, shall abate
5 by reason of the enactment of this Act. No cause of action by
6 or against any department or agency, functions of which are
7 transferred under this Act, or by or against any officer there-
8 of in the official capacity of such officer shall abate by reason
9 of the enactment of this Act.

10 (e) CONTINUATION OF SUITS.—If, before the date on
11 which this Act takes effect, any department or agency, or
12 officer thereof in the official capacity of such officer, is a
13 party to a suit, and under this Act any function of such de-
14 partment, agency, or officer is transferred to the Secretary or
15 any other official of the Department, then such suit shall be
16 continued with the Secretary or other appropriate official of
17 the Department substituted or added as a party.

18 (f) JUDICIAL REVIEW.—Orders and actions of the Sec-
19 retary in the exercise of functions transferred under this Act
20 shall be subject to judicial review to the same extent and in
21 the same manner as if such orders and actions had been by
22 the agency or office, or part thereof, exercising such func-
23 tions, immediately preceding their transfer. Any statutory re-
24 quirements relating to notice, hearing, action upon the
25 record, or administrative review that apply to any function

1 transferred under this Act shall apply to the exercise of such
2 function by the Secretary.

3 **SEC. 307. ANNUAL REPORT.**

4 The Secretary shall, within thirty calendar days after
5 the end of each calendar year, make a report to the President
6 for submission to the Congress on the activities of the De-
7 partment during the preceding calendar year.

8 **SEC. 308. REFERENCE.**

9 With respect to any functions transferred under this Act
10 and exercised after the effective date of this Act, reference in
11 any other Federal law to any department, commission, or
12 agency or to any officer or office the functions of which are
13 so transferred shall be deemed to refer to the Secretary or
14 the Department.

15 **SEC. 309. TRANSACTION.**

16 With the consent of the appropriate department or
17 agency head concerned, the Secretary is authorized to utilize
18 the services of such officers, employees, and other personnel
19 of the departments and agencies of the executive branch for
20 such period of time as may reasonably be needed to facilitate
21 the orderly transfer of functions and agencies under this Act.

22 **SEC. 310. TECHNICAL AND CONFORMING AMENDMENTS.**

23 (a) Section 5313 of title 5, United States Code, is
24 amended by adding at the end thereof the following:

1 “(25) Under Secretaries, Department of Com-
2 merce (2).”.

3 (b) Section 5314(4) of title 5, United States Code, is
4 repealed.

5 (c)(1) The first paragraph of section 231 of the Foreign
6 Assistance Act of 1961 is amended—

7 (A) by inserting “and to promote the international
8 trade position of the United States” after “develop-
9 ment assistance objectives of the United States”; and

10 (B) by striking out all after “agency of the United
11 States”.

12 (2) Section 233(b) of such Act is amended by striking
13 out “Administrator of the Agency for International Develop-
14 ment” and inserting in lieu thereof “Secretary of Com-
15 merce”.

16 (d) Section 341(c) of the Export-Import Bank Act of
17 1945 is amended—

18 (1) by striking out the first sentence and inserting
19 in lieu thereof the following: “There shall be a Board
20 of Directors consisting of the Secretary of Commerce,
21 who shall serve as Chairman, the President and First
22 Vice President of the Export-Import Bank, and three
23 additional persons appointed by the President, by and
24 with the advice and consent of the Senate.”; and

1 (2) by striking out "five" in the second sentence
2 of such section and inserting in lieu thereof "six".

3 **SEC. 311. AUTHORIZATION OF APPROPRIATIONS.**

4 Subject to any limitation on appropriations applicable
5 with respect to any function transferred to the Secretary,
6 there are authorized to be appropriated such sums as may be
7 necessary to carry out the provisions of this Act and to
8 enable the Secretary to administer and manage the Depart-
9 ment.

10 **SEC. 312. SEPARABILITY.**

11 If any provision of this Act or the application thereof to
12 any person or circumstance is held invalid, neither the re-
13 mainder of this Act nor the application of such provision to
14 other persons or circumstances shall be affected thereby.

15 **SEC. 313. DEFINITION.**

16 As used in this Act, the term "function" includes any
17 duty, obligation, power, authority, responsibility, right, privi-
18 lege, activity, or program.

19 **SEC. 314. EFFECTIVE DATE.**

20 (a) The provisions of this Act (including the amendments
21 made by this Act) shall take effect one hundred and twenty
22 days after the date of enactment of this Act or on such earlier
23 date as the President may prescribe and publish in the Feder-
24 al Register, except that at any time after the date of enact-
25 ment of this Act—

1 (1) any of the officers provided for in this Act may
2 be nominated and appointed as provided in this Act,
3 and

4 (2) the Secretary may promulgate regulations pur-
5 suant to section 301(f) of this Act.

6 (b) Funds available to any department or agency (or any
7 official or component thereof), the functions of which are
8 transferred to the Secretary under this Act, may, with the
9 approval of the Director of the Office of Management and
10 Budget, be used to pay the compensation and expenses of
11 any officer appointed pursuant to this Act until such time as
12 funds for that purpose are otherwise available.

13 **SEC. 315. INTERIM APPOINTMENTS.**

14 (a) In the event that one or more officers required by
15 this Act to be appointed by and with the advice and consent
16 of the Senate shall not have entered upon office on the effec-
17 tive date of this Act and notwithstanding any other provision
18 of law, the President may designate an officer in the execu-
19 tive branch to act in such office for ninety days or until the
20 office is filled as provided in this Act, whichever occurs first.

21 (b) Any officer acting in an office in the Department
22 pursuant to the provisions of subsection (a) shall receive com-
23 pensation at the rate prescribed for such office under this
24 Act.